

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MARY ANN SELINSKY,

Plaintiff,

v.

AMERICAN RED CROSS,

Defendant.

NO. 3:07-CV-0184

(JUDGE CAPUTO)

**MEMORANDUM ORDER**

\_\_\_\_\_Presently before the Court is Defendant American Red Cross's motion for judgment on the pleadings. (Doc. 17.)

On January 31, 2007, Plaintiff filed a Complaint against the Defendant, the American Red Cross. (Doc. 1.) Defendant filed its Answer and Affirmative Defenses on March 5, 2007. (Doc. 11.) On August 20, 2007, Defendant filed the present motion for judgment on the pleadings. (Doc. 17.) As Plaintiff submitted materials outside the pleadings in its response, the Defendant's motion for judgment on the pleadings will be converted into a motion for summary judgment pursuant to Federal Rule of Civil Procedure 12(c), and the parties will be allowed thirty (30) days from the date of the attached order to submit any additional evidence or briefs regarding these matters.

Defendant moves for judgment on the pleadings on the grounds that the Plaintiff's claim is brought outside of the statute of limitations, and that the claim is not subject to equitable tolling.

In the present case, the Plaintiff submits an affidavit in response to the argument regarding equitable tolling and the statute of limitations. Federal Rule of Civil Procedure 12(c) allows a district court to convert a Rule 12(c) motion into a motion for

summary judgment where materials outside the pleadings have been presented to the court. See Fed. R. Civ. P. 12(b). Before deciding the motion for summary judgment, however, a court must ensure that all parties have adequate notice of the conversion and a reasonable opportunity to present evidence to the court. See *In Re Rockefeller Center Properties, Inc. Securities Litigation*, 184 F.3d 280, 287 (3d Cir. 1999). As the question of whether Plaintiff's claims are equitably tolled are covered by the Plaintiff's affidavit, the Court will exercise its discretion to convert.

**NOW**, this 1st day of November 2007, **IT IS HEREBY ORDERED** that:

- 1) Defendant's motion for judgment on the pleadings (Doc. 17) is **CONVERTED** to a Rule 56 summary judgment motion.
- (2) The parties shall submit further evidence and/or supplemental briefs of no more than seven (7) pages within thirty (30) days of the date on this order.

/s/ A. Richard Caputo  
A. Richard Caputo  
United States District Judge